

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

RAYMOND WARE,)	CIVIL NO. 04-00671 HG LEK
)	
Plaintiff,)	DECLARATION OF JOHNALYN
)	NAKAMURA
v.)	
)	
MICHAEL CHERTOFF, Secretary,)	
DEPARTMENT OF HOMELAND)	
SECURITY,)	
Defendant.)	
)	

DECLARATION OF JOHNALYN NAKAMURA

I, Johnalyn Nakamura (formerly Johnalyn Abreu), make the following declaration in lieu of affidavit, as permitted by Section 1746 of Title 28 of the United States Code. I am aware that this declaration will be filed with the United States District Court for the District of Hawaii and that it is the legal equivalent of a statement under oath.

1. I am currently the Special Projects Officer at Honolulu International Airport ("Honolulu Airport") for the Transportation Security Administration (TSA). I have held this position since May 1, 2006. In 2003 - 2004, I was employed by TSA as an Administrative Officer. During this time my duties were to review and administer processing of all personnel actions. I knew Mr. Raymond Ware and Mr. Richard Kidani as both worked as TSA supervisory screeners at Honolulu International Airport.

2. Mr. Kidani took the recertification examination on November 6, 2003 and failed. Mr. Kidani waived his right to

remedial training and immediately retested on November 6, 2003, and was notified that he failed on November 7, 2003. He was placed on administrative leave effective the same day.

3. On November 12, 2003 TSA HNL, Sidney Hayakawa, Federal Security Director (FSD) requested reconsideration on the grounds that Mr. Kidani had been sick for numerous days in the months preceding the recertification testing, undergoing chemotherapy and recovering from the effects of chemotherapy. At least eleven other employees who were on sick, maternity or workers compensation leave had not been required to take the recertification test.

4. On November 21, 2003 TSA denied Kidani's reconsideration to TSA HNL. Proposed termination was initiated on December 8, 2003.

5. On December 22, 2003 Mr Kidani told FSD Hayakawa that he wished to retest now because he did not exercise the opportunity to review the material and study prior to the retest. He alleged his recertification waiver was not well considered. TSA attorney Martha Buxton advised that Mr. Kidani's waiver of his right to remedial training may have been a violation of TSA procedures. Based on these facts, I recommended to FSD Hayakawa that TSA Honolulu support Mr. Kidani's request for reconsideration. Mr. Hayakawa agreed. We also allowed Mr. Kidani to remain on administrative leave pending the final outcome of his appeals.

6. On March 26, 2004 HNL received TSA HQ's denial of Mr. Kidani's request and he was not allowed to take the certification test. When Mr. Kidani's appeals were exhausted on April 13, 2004, Mr. Kidani's employment was terminated.

7. TSA terminated the employment of four other employees who failed the recertification test, including Mr. Ware, in November 2003. Employees 1-3 received only 2, 1, and 4 days of administrative leave after failing the certification. Termination for these employees was a one step process since they probationary employees. Mr. Ware received 18 days of administrative leave after recertification failure prior to termination because he was a permanent employee.

I have read the above and declare under penalty of perjury that the information stated is true and correct to the best of my belief.



Johnalyn Nakamura